



03/07/2005 15:50

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WONG CABELLO

PAGE 02

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29855

7590

12/08/2004

WONG, CABELLO, LUTSCH, RUTHERFORD &  
BRUCCULERI,  
P.C.  
20333 SH 249  
SUITE 600  
HOUSTON, TX 77070

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I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4000, on the date indicated below.

Rebecca Ginn (Depositor's name)  
3.7.2005 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,583	11/21/2001	Melody Vos	5253-04100	2043

TITLE OF INVENTION: DATABASE MANAGEMENT SYSTEM AND METHOD WHICH MONITORS ACTIVITY LEVELS AND DETERMINES APPROPRIATE SCHEDULE TIMES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1370	\$300	\$1670	03/08/2005
EXAMINER	ART UNIT	CLASS-SUBCLASS			
AL HASHEMI, SANA A	2161	707-001000			

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

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2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Wong, Cabello, Lutsch,  
Rutherford & Brucculeri, P.C.  
2  
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

BMC SOFTWARE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Houston, TX

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

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☒ Publication Fee (No small entity discount permitted)  
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☐ Payment by credit card. Form PTO-2038 is attached.  
☒ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number

501922, referencing 149-0045US

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above. NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant, a registered attorney or agent, or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

Typed or printed name Sean McDermott

Date

Registration No. 49,000

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

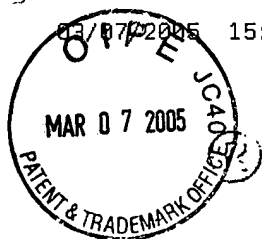
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PTOL-85 (Rev. 11/04) Approved for use through 04/30/2007.

OMB 0651-0033 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

PAGE 2/5 \* RCVD AT 3/7/2005 4:48:15 PM [Eastern Standard Time] \* SVR:USPTO-EFXXF-2/1 \* DNIS:7464000 \* CSID:8324462424 \* DURATION(mm-ss):02:30  
03/08/2005 AWONDAF2 00000077 501922 09990583

01 FC:1501 1400.00 DA  
02 FC:1504 300.00 DA



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WONG CABELLO

PAGE 01

**wongcabello**

Wong, Cabello, Lutsch, Rutherford &amp; Brucculeri, P.C.

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Fax: 832-446-2452  
smcdermott@counselip.com

**FACSIMILE TRANSMISSION COVER SHEET**

Date: Monday, March 07, 2005

To USPTO - Examiner: Sana A. Al Hashemi

Art Unit: 2161

Fax: 703/746-4000

From: Sean McDermott

Customer No: 29855

Client/Matter #: 149-0045US

Serial No.: 09/990,583

Re: *Please see the attached*Pages (including cover page): 5

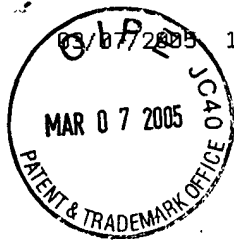
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- Issue Fee Transmittal is submitted in duplicate; and
- Comments on Statement of Reasons for Allowance.

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WONG CABELLO

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/990,583 Confirmation No.: 2043  
Applicant : Melody Voss et al.  
Entitled : Database Management System and Method Which Monitors Activity  
Levels and Determines Appropriate Schedule Times  
Filed : 11/21/2001  
TC/A.U. : 2161  
Examiner : Sana A. Al Hashemi  
  
Docket No. : 149-0045US  
Customer No. : 29855

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**COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE  
UNDER 37 C.F.R. § 1.104(E)**

The Applicants appreciate the Examiner's allowance of the claims in this application. Applicants do not disagree with the Examiner's characterization of what the prior art discloses, and Applicants agree that the prior art does not disclose or suggest the inventions Applicants have claimed. However, Applicants wish to point out that the Examiner has not necessarily correctly characterized the scope of all of Applicants' allowed claims. Therefore, the Examiner's statements should not be interpreted as indicative of the scope of the Applicants' claims. Instead, each claim must be interpreted pursuant to its specific language.

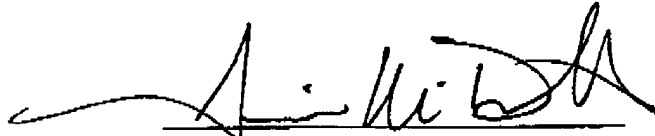
This paper is filed in response to the Notice of Allowance mailed 12/8/2004 and is being timely filed concurrently with the payment of the Issue fee. No fee is believed due. Should any fees be required for any reason, the undersigned representative authorizes the Commissioner to charge any required fees to Deposit Account No. 501922, referencing order no. 149-0045US.

Appl. No.: 09/990,583  
Comments on Statement for Reasons for Allowance

To facilitate the resolution of any issues or questions presented by this paper, Applicants respectfully request that the Examiner directly contact the undersigned by phone to further the discussion, reconsideration, and allowance of the claims.

Respectfully submitted,

March 7, 2005  
Date

  
Sean McDermott  
Registration No. 49,000

Customer No. 29855  
Wong, Cabello, Lutsch,  
Rutherford & Bruculeri, LLP  
20333 State Highway 249, Suite 600  
Houston, Texas 77070  
Direct: 832/446-2416  
Fax: 832/446-2424

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Signature

Rebecca Ginn  
(Print/Type)

3.7.2005  
Date